

REMARKS

A Request for a One (1) Month Extension of Time pursuant to 37 CFR

1.136(a) and (b) is attached hereto.

The above-captioned patent application has been carefully reviewed in light of the non-final Office Action to which this Amendment is responsive. Claim 6 has been amended in an effort to correct a minor formality issue not previously noted by the Applicants'. To that end, no new matter has been added.

Claims 1-3, 6-14, and 17-19 are currently pending in the above-captioned patent application. The Examiner has rejected all pending claims under 35 USC §103(a) as being unpatentable over Sandelman (U. S. Patent No. 6,211,782) in view of Koether (U.S. Application Publication No. 2002/0082924). Applicants' respectfully traverse the above rejection.

In order to maintain a successful *prima facie* obviousness rejection, each and every essentially claimed feature must be found or suggested, either singly or in combination, by the cited art. Those features which are not suggested or found must be notoriously well known in the field. Moreover, there must be a motivation found in the prior art as a whole to make the purported combination. This combination cannot be made through impermissible hindsight. Each reference must be read in its entirety and not in a piecemeal fashion.

Each of Applicants' independent Claims 1, 12, 13 and 19 recite, in part, "a server with bi-directional communications access. . . to an entry device and . . . at least one HVAC device" and "querying . . . said at least one HVAC device for status information. Applicants' independent Claim 13 specifically recites "querying . . . said at least one HVAC device for status information when requested by a message from said entry device". Applicants' independent Claims 1 and 12 include "querying means" which implicitly read upon the "when requested by a message from the entry device" language of independent Claim 13. Support is found at page 7, lines 17-19, of the present description.

That is to say, a user is enabled to initiate a status information query to the monitored (i.e., HVAC) device, on demand, from the entry device. This particular feature enables the user to detect a problem associated with the monitoring of the device as well as to detect any problems with the monitored device itself.

As an example, the lack of a response to the user from either the monitored device and/or the server will indicate the existence of a problem with the monitoring of the device, and possibly a problem with the monitored device itself. Additionally, the lack of a response according to the present invention creates a “time out”, which is also indicative or at least probative of a possible problem with the monitoring of the device, as well, providing the user with information to initiate action to correct problems associated with the lack of response from the monitored device. The latter “time out” feature is positively recited in independent Claim 19.

Applicants’ do not disagree that Sandleman discloses an entry device or that the entry device can be a handheld computer, cell phone, etc, or that connections can be made via the Internet. However, Applicants’ do disagree as in our previous paper filed March 10, 2004, that the querying means act upon a message from the entry device in the manner of the present invention. The secondary reference of Koether does include the feature of password/user name, but this reference also fails to address that the querying means must first act upon a message from the entry device prior to querying the HVAC device.

Claims 2, 3, and 6-11 are believed allowable for the same reasons as Claim 1, since these claims are dependent thereon.

The Examiner has only sought to comment on the applicability of independent Claim 1 with regard to the cited prior art. That is to say, the Examiner has not at all commented upon features particular to these claims which are not present in Claim 1 (for example, the time out feature of Claim 19, changing entry device setting feature of Claim 12, multiple databases as indicated in Claim 13) with regard to the blanket rejection of these claims. Applicants’ believe that a proper rejection or examination has not been made with regard to any of these claims. To

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that end, since Applicants' have not amended these claims, any subsequent action cannot be deemed final. Applicants' have reviewed the newly cited reference in regard to the Examiner's previous pronouncement that the above claims were allowable over the prior art. The inclusion of this new reference does not appear in any way to include, teach, suggest or in any way disclose those features previously missing from the prior art.

To that end, withdrawal of the rejections is respectfully requested.

As noted above, Applicants' have amended Claim 6 to attend to a minor formality error, since this claim previously depended from a canceled claim. It is believed all pending claims are now in an allowable condition and such allowance is earnestly solicited.

In summary, it is believed the above-captioned patent application is in a condition for allowance. An expedited Notice of Allowance is therefore respectfully requested.

If the Examiner wishes to expedite prosecution of this matter, he is invited to contact Applicants' representative at the telephone noted below.

The Director is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

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